

AMENDED IN SENATE JUNE 11, 2003

AMENDED IN SENATE MAY 28, 2003

AMENDED IN SENATE MAY 13, 2003

AMENDED IN ASSEMBLY MARCH 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 97

Introduced by Assembly Members Nation, Parra, and Wyland
(Principal coauthor: Senator Denham)
(Coauthors: Assembly Members Benoit, Berg, and Plescia)

January 8, 2003

An act to amend Sections ~~46601.5~~, 48209.1, 48209.15, and 48209.16 of, ~~to amend, add, and repeal Section 48204 of~~, and to repeal Sections 48209.2, 48209.12, 48209.13, and 48209.17 of, the Education Code, relating to school attendance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 97, as amended, Nation. ~~Education: school attendance requirements~~ *Pupils: attendance alternatives.*

(1) ~~Existing law requires any 2 school districts entering into an agreement for interdistrict attendance to give consideration to the child care needs of the pupil and requires any district that has entered into an agreement for interdistrict attendance to allow the pupil to remain continuously enrolled in the school district of choice, subject to certain requirements. Existing law makes these provisions operative until July 1, 2003.~~

~~This bill would additionally prohibit a school district from requiring a pupil attending the school pursuant to an interdistrict attendance agreement to annually reapply for interdistrict attendance in that school district. This bill would extend the operative date of those provisions until July 1, 2007.~~

~~(2) Existing law provides that a pupil is deemed to have complied with the residency requirements for school attendance in a school district, provided the pupil meets one of the specified requirements, including that one or both of the parents or legal guardians of the pupil is employed within the boundaries of the school district. Existing law requires the school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses. Existing law makes those provisions permitting school district attendance based upon employment within the boundaries of a school district effective until July 1, 2003.~~

~~This bill instead would make those provisions inoperative on and after July 1, 2007, and would repeal the provisions on January 1, 2008.~~

~~By extending the requirement for a school district in which the pupil's parent or guardian is employed to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, and by extending the requirement for a governing board of any high school district whose feeder elementary school entered into an interdistrict transfer agreement based on a pupil's child care needs to allow that pupil to attend school in that district through the 12th grade if certain requirements are met, this bill imposes a state-mandated local program.~~

~~(3)~~

~~(1) Existing law encourages school districts to hold information hearings on their educational programs and authorizes school districts to provide transportation assistance to pupils attending a school pursuant to an agreement for interdistrict attendance and to make information regarding school programs, policies, and procedures available to interested persons upon request.~~

~~This bill would delete these provisions.~~

~~(4)~~

~~(2) Existing law requires each person between the ages of 6 and 18 years, not otherwise exempt, to attend the public full-time day school in the district in which their parent or guardian is a resident. Existing law establishes alternatives to this attendance requirement including,~~



but not limited to, interdistrict transfers, which are operative until July 1, 2003, and as of January 1, 2004, are repealed.

This bill would require the school district that has entered into an agreement for the interdistrict attendance of a pupil to allow the pupil to attend the school through the 12th grade if the parent or guardian so chooses, except as to those pupils who are enrolled in the school district of choice on the effective date of this bill. The bill would prohibit a school district from requiring a pupil attending a school pursuant to an interdistrict agreement to annually reapply for interdistrict attendance in that school district.

This bill would extend the operative date of these attendance alternatives to July 1, 2007, and would extend the repeal date to January 1, 2008.

~~(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

~~(6)~~

~~(3) This bill would provide that it would become operative only if Senate Bill 140 of 2003–04 Regular Session is chaptered and becomes effective on or before January 1, 2004.~~

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: **yes no**.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 46601.5 of the Education Code is~~
2 ~~amended to read:~~
3 ~~46601.5. (a) The governing boards of any two school~~
4 ~~districts that have been requested by a pupil's parent or legal~~
5 ~~guardian to enter into an agreement for interdistrict attendance~~

1 pursuant to Section 46600 shall, in considering that request, give
2 consideration to the child care needs of the pupil.

3 (b) ~~The governing board of a school district that has entered~~
4 ~~into an agreement for the interdistrict attendance of a pupil based~~
5 ~~on that pupil's child care needs may not require that pupil to~~
6 ~~annually reapply for an interdistrict transfer and shall allow that~~
7 ~~pupil to remain continuously enrolled in the school district of~~
8 ~~choice if the parent or guardian so chooses, subject to paragraphs~~
9 ~~(1) to (6), inclusive, of subdivision (f) of Section 48204.~~

10 (c) ~~The governing board of any high school district whose~~
11 ~~feeder elementary school has entered into an agreement with~~
12 ~~another school district for the interdistrict attendance of a pupil~~
13 ~~based on that pupil's child care needs shall allow that pupil to~~
14 ~~continue to attend school through the 12th grade in the same~~
15 ~~district if the parent or guardian so chooses, subject to paragraphs~~
16 ~~(1) to (6), inclusive, of subdivision (f) of Section 48204.~~

17 (d) ~~This section shall remain in effect only until July 1, 2007,~~
18 ~~and as of that date is repealed, unless a later enacted statute, which~~
19 ~~is enacted before July 1, 2007, deletes or extends that date.~~

20 SEC. 2. ~~Section 48204 is added to the Education Code, to~~
21 ~~read:~~

22 48204. ~~Notwithstanding Section 48200, a pupil is deemed to~~
23 ~~have complied with the residency requirements for school~~
24 ~~attendance in a school district, if he or she is any of the following:~~

25 (a) ~~A pupil placed within the boundaries of that school district~~
26 ~~in a regularly established licensed children's institution, or a~~
27 ~~licensed foster home, or a family home pursuant to a commitment~~
28 ~~or placement under Chapter 2 (commencing with Section 200) of~~
29 ~~Part 1 of Division 2 of the Welfare and Institutions Code.~~

30 ~~An agency placing a pupil in a home or institution described in~~
31 ~~this subdivision shall provide evidence to the school that the~~
32 ~~placement or commitment is pursuant to law.~~

33 (b) ~~A pupil for whom interdistrict attendance has been~~
34 ~~approved pursuant to Chapter 5 (commencing with Section 46600)~~
35 ~~of Part 26.~~

36 (c) ~~A pupil whose residence is located within the boundaries of~~
37 ~~that school district and whose parent or legal guardian is relieved~~
38 ~~of responsibility, control, and authority through emancipation.~~

39 (d) ~~A pupil who lives in the home of a caregiving adult that is~~
40 ~~located within the boundaries of that school district. Execution of~~

1 ~~an affidavit under penalty of perjury pursuant to Part 1.5~~
2 ~~(commencing with Section 6550) of Division 11 of the Family~~
3 ~~Code by the caregiving adult is a sufficient basis for a~~
4 ~~determination that the pupil lives in the caregiver's home, unless~~
5 ~~the school district determines from actual facts that the pupil is not~~
6 ~~living in the caregiver's home.~~

7 ~~(e) A pupil residing in a state hospital located within the~~
8 ~~boundaries of that school district.~~

9 ~~(f) An elementary school pupil, one or both of whose parents,~~
10 ~~or whose legal guardian, is employed within the boundaries of that~~
11 ~~school district.~~

12 ~~(1) This subdivision does not require the school district within~~
13 ~~which the parents or guardians of a pupil are employed to admit~~
14 ~~the pupil to its schools. Districts may not, however, refuse to admit~~
15 ~~pupils under this subdivision on the basis, except as expressly~~
16 ~~provided in this subdivision, of race, ethnicity, sex, parental~~
17 ~~income, scholastic achievement, or any other arbitrary~~
18 ~~consideration.~~

19 ~~(2) The school district in which the residency of either the~~
20 ~~parents or guardians of the pupil is established, or the school~~
21 ~~district to which the pupil is to be transferred under this~~
22 ~~subdivision, may prohibit the transfer of the pupil under this~~
23 ~~subdivision if the governing board of the district determines that~~
24 ~~the transfer would negatively impact the court-ordered or~~
25 ~~voluntary desegregation plan of the district.~~

26 ~~(3) The school district to which the pupil is to be transferred~~
27 ~~under this subdivision may prohibit the transfer of the pupil if the~~
28 ~~district determines that the additional cost of educating the pupil~~
29 ~~would exceed the amount of additional state aid received as a result~~
30 ~~of the transfer.~~

31 ~~(4) The governing board of a school district that prohibits the~~
32 ~~transfer of a pupil pursuant to paragraph (1), (2), or (3) shall~~
33 ~~identify, and communicate in writing to the parents or guardians~~
34 ~~of the pupil, the specific reasons for that determination and shall~~
35 ~~ensure that the determination, and the specific reasons therefor, are~~
36 ~~accurately recorded in the minutes of the board meeting in which~~
37 ~~the determination was made.~~

38 ~~(5) The average daily attendance for pupils admitted pursuant~~
39 ~~to this subdivision is calculated pursuant to Section 46607.~~

~~(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:~~

~~(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.~~

~~(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2,501, 3 percent of the average daily attendance of the district or 25 pupils, whichever amount is greater.~~

~~(C) For any district with an average daily attendance of 2,501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever amount is greater.~~

~~(7) Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one or both parents of a pupil is employed, or where the legal guardian of the pupil is employed, the pupil does not have to reapply in the next school year to attend a school within that school district and the district governing board shall allow the pupil to attend school through the 12th grade in that district if the parent or guardian so chooses, subject to paragraphs (1) to (6), inclusive.~~

~~(g) This section is inoperative on and after July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.~~

~~SEC. 3.—Section 48204 of the Education Code, as amended by Section 19.5 of Chapter 299 of the Statutes of 1997, is amended to read:~~

~~48204.—Notwithstanding Section 48200, a pupil is deemed to have complied with the residency requirements for school attendance in a school district, if he or she is:~~

~~(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.~~

1 ~~An agency placing a pupil in the home or institution shall~~
2 ~~provide evidence to the school that the placement or commitment~~
3 ~~is pursuant to law.~~

4 ~~(b) A pupil for whom interdistrict attendance has been~~
5 ~~approved pursuant to Chapter 5 (commencing with Section 46600)~~
6 ~~of Part 26.~~

7 ~~(c) A pupil whose residence is located within the boundaries of~~
8 ~~that school district and whose parent or legal guardian is relieved~~
9 ~~of responsibility, control, and authority through emancipation.~~

10 ~~(d) A pupil who lives in the home of a caregiving adult that is~~
11 ~~located within the boundaries of that school district. Execution of~~
12 ~~an affidavit under penalty of perjury pursuant to Part 1.5~~
13 ~~(commencing with Section 6550) of Division 11 of the Family~~
14 ~~Code by the caregiving adult is a sufficient basis for a~~
15 ~~determination that the pupil lives in the caregiver's home, unless~~
16 ~~the school district determines from actual facts that the pupil is not~~
17 ~~living in the caregiver's home.~~

18 ~~(e) A pupil residing in a state hospital located within the~~
19 ~~boundaries of that school district.~~

20 ~~(f) This section is operative on January 1, 2010.~~

21 ~~SEC. 4.—~~

22 *SECTION 1.* ~~Section 48209.1 of the Education Code is~~
23 ~~amended to read:~~

24 48209.1. (a) The governing board of any school district may
25 accept interdistrict transfers. A school district that receives an
26 application from a parent or guardian of a pupil for attendance
27 under this article is not required to admit the pupil to its schools.
28 If, however, the governing board elects to accept transfers as
29 authorized under this article, it may, by resolution, elect to accept
30 transfer pupils, determine and adopt the number of transfers it is
31 willing to accept under this article, and ensure that pupils admitted
32 under the policy are selected through a random, unbiased process
33 that prohibits an evaluation of whether or not the pupil should be
34 enrolled based upon his or her academic or athletic performance.
35 Any pupil accepted for transfer shall be deemed to have fulfilled
36 the requirements of Section 48204.

37 (b) Either the pupil's school district of residence, upon
38 notification of the pupil's acceptance to the school district of
39 choice pursuant to subdivision (c) of Section 48209.9, or the
40 school district of choice may prohibit the transfer of a pupil under

1 this article or limit the number of pupils so transferred if the
2 governing board of the district determines that the transfer would
3 negatively impact any of the following:

4 (1) The court-ordered desegregation plan of the district.

5 (2) The voluntary desegregation plan of the district that meets
6 the criteria of Section 42249.

7 (3) The racial and ethnic balance of the district.

8 (c) The school district of residence ~~may~~ *shall* not adopt policies
9 that in any way block or discourage pupils from applying for
10 transfer to another district.

11 (d) (1) (A) The governing board of any school district that has
12 entered into an agreement for the interdistrict attendance of a pupil
13 pursuant to this article shall allow that pupil to remain
14 continuously enrolled in the school district of choice through the
15 12th grade if the parent or guardian of the pupil so chooses, subject
16 to paragraphs (1) to (6), inclusive, of subdivision (f) of Section
17 48204. ~~A~~

18 (B) *Subparagraph (A) does not apply to a pupil who is enrolled*
19 *in the school district of choice on the date the act adding this*
20 *subdivision to this section becomes effective.*

21 (2) A pupil that is allowed to remain continuously enrolled in
22 the school district of choice pursuant to this subdivision may not
23 be required to reapply for an interdistrict transfer each year.

24 ~~SEC. 5.—~~

25 ~~SEC. 2.~~ Section 48209.2 of the Education Code is repealed.

26 ~~SEC. 6.—~~

27 ~~SEC. 3.~~ Section 48209.12 of the Education Code is repealed.

28 ~~SEC. 7.—~~

29 ~~SEC. 4.~~ Section 48209.13 of the Education Code is repealed.

30 ~~SEC. 8.—~~

31 ~~SEC. 5.~~ Section 48209.15 of the Education Code is amended
32 to read:

33 48209.15. It is the intent of the Legislature that every parent
34 in this state be informed of their opportunity for currently existing
35 choice options under this article regardless of ethnicity, primary
36 language, or literacy.

37 ~~SEC. 9.—~~

38 ~~SEC. 6.~~ Section 48209.16 of the Education Code is amended
39 to read:

1 48209.16. This article is inoperative on and after July 1, 2007,
2 and, as of January 1, 2008, is repealed, unless a later enacted
3 statute, which becomes effective on or before January 1, 2008,
4 deletes or extends the dates on which it becomes inoperative and
5 is repealed.

6 ~~SEC. 10.—~~

7 *SEC. 7.* Section 48209.17 of the Education Code is repealed.

8 ~~SEC. 11.— Notwithstanding Section 17610 of the Government~~
9 ~~Code, if the Commission on State Mandates determines that this~~
10 ~~act contains costs mandated by the state, reimbursement to local~~
11 ~~agencies and school districts for those costs shall be made pursuant~~
12 ~~to Part 7 (commencing with Section 17500) of Division 4 of Title~~
13 ~~2 of the Government Code. If the statewide cost of the claim for~~
14 ~~reimbursement does not exceed one million dollars (\$1,000,000),~~
15 ~~reimbursement shall be made from the State Mandates Claims~~
16 ~~Fund.~~

17 ~~SEC. 12.—~~

18 *SEC. 8.* *This act shall become operative only if Senate Bill 140*
19 *of the 2003–04 Regular Session is chaptered and becomes effective*
20 *on or before January 1, 2004.*

21 *SEC. 9.* This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety
23 within the meaning of Article IV of the Constitution and shall go
24 into immediate effect. The facts constituting the necessity are:

25 In order to maintain the status of existing law governing school
26 district attendance, it is necessary that this act take effect
27 immediately.